

August 19, 2013

VIA ELECTRONIC MAIL ONLY

Mark Slovick
Dept of Planning and Development Services
5510 Overland Ave, Suite 110
San Diego, CA 92123

RE: Lilac Hills Ranch Master Planned Community: PDS2012-3800-12-001 (GPA), PDS2012-3810-12-001 (SP), PDS2012-3600-12-003 (REZ), PDS2012-3100-5571 (TM), PDS2012-3100-5572 (TM), PDS2012-3300-12-005 (MUP), PDS2012-3500-12-017 (STP), PDS2012-3500-12-018 (STP), HLP XX-XXX LOG NO.3910 12-02-003 (ER); SCH NO. 2012061100

Dear Mr. Slovick:

The Endangered Habitats League (EHL) appreciates the opportunity to submit comments on the Draft Environmental Impact Report for this proposed project. As you know, EHL is a longstanding stakeholder in County planning efforts.

This project would create a commuter-based "bedroom" community in an agricultural portion of Valley Center. It would shred the consensus reached for the Valley Center community as part of the historic General Plan Update, just adopted in 2011. No compelling planning rationale or deficit in housing capacity is present to justify this proposed amendment.

Our comments focus on General Plan conformity. It is our conclusion that the County has fundamentally erred in tentatively finding the proposed project in conformance with the General Plan. During public review of the draft, we respectfully urge you to step back and take a hard look at your General Plan, and to please reconsider the matter. This is a pivotal point in how the new Dept of Planning and Development Services addresses the future of San Diego County.

Please let me know if there are questions or if more information would be helpful.

If you could respond to this message confirming your timely receipt, in good order, of these comments, that would be appreciated.

With best regards,
Dan Silver

Dan Silver, Executive Director
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ENDANGERED HABITATS LEAGUE

DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE



August 19, 2013

VIA ELECTRONIC MAIL

Mark Slovick
Dept. of Planning and Development Services
5510 Overland Ave, Suite 110
San Diego, CA 92123

**RE: General Plan Conformance Analysis—Lilac Hills Ranch Specific Plan
PDS2012-3800-12-001 (GPA), PDS2012-3810-12-001 (SP), PDS2012-3600-12-003 (REZ), PDS2012-3100-5571 (TM), PDS2012-3100-5572 (TM), PDS2 012-3300-12-005 (MUP), PDS2012-3500-12-017 (STP), PDS 2012-3500-12-018 (STP), HLP XX-XXX LOG NO. 3910 12-02-003 (ER); SCH NO.2012061100
Lilac Hills Ranch Master Planned Community**

Dear Mr. Slovick:

The Endangered Habitats League (EHL) respectfully submits the following analysis showing that the above-referenced project is fundamentally inconsistent with mandatory policies of the adopted County of San Diego General Plan. Specifically, the anti-leapfrogging provisions of the General Plan set stringent standards on the creation of new “villages” on currently rural lands, mandating that any new village must provide necessary services and facilities, be consistent with the Community Development Model *and* “are designed to meet the LEED-Neighborhood Development Certification or an equivalent.” (LU-1.2) As explained below, the proposed Lilac Hills Ranch Specific Plan fails to meet these mandatory General Plan standards. As a result, the County is precluded by law from approving the Project. (See *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777 [specific plan approval set aside because “project is project is inconsistent with the general plan’s traffic service level policy”].)

The issue of under what circumstances, if at all, new village densities should be permissible in unincorporated backcountry land now zoned semi-rural and rural is pivotal to the overall vision set forth in the 2011 General Plan Update. The Community Development Model envisioned the concentration of growth in *existing* town centers, while existing rural lands and open space areas would be kept intact. Areas surrounding villages would serve as semi-rural “buffers.” For this reason, the creation of a new “village” in areas the Update has designated “rural” will potentially create repercussions in a broad area, and runs contrary to the Update’s goal of keeping the agricultural and rural heritage of the County intact. The anti-leapfrogging provisions of Land Use Policy LU-1.2, the terms of which govern whether this project is consistent with the Update, must therefore be interpreted in such a way that every required element has meaning.

Unfortunately, the documentation provided reflects that staff has interpreted LU-1.2 so as to render key requirements meaningless. LU-1.2 requires that any new village be *both* consistent with the Community Development Model *and* meet LEED-ND or equivalent locational and design standards. Here's the language:

Land Use Policy 1.2: Leapfrog Development. Prohibit leapfrog development which is inconsistent with the Community Development Model. Leapfrog Development restrictions do not apply to new villages that are designed to be consistent with the Community Development Model, that provide necessary services and facilities, *and* that are designed to meet the LEED Neighborhood Development Certification (LEED ND) or an equivalent. For purposes of this policy, leapfrog development is defined as Village densities located away from established villages or outside established water and sewer service boundaries. (See applicable community plan for possible relevant policies.) (Emphasis added.)

Instead of addressing both of these mandatory elements, however, the General Plan consistency analysis contained in the Specific Plan explicitly ignores the *second* requirement of LEED-ND or equivalent, conflating it with the Community Development Model element. The only analysis of LU-1.2 consistency that appears in the vast documentation provided concludes:

“The definitions established for both the Village Regional Land Use Category and the Village Core Mixed Use Land Use Designation incorporate the essential principles and standards of the Community Development Model *and by extension* the LEED-ND or equivalent guidelines . . .” (Specific Plan at p. II-33, emphasis added.)

Because the analysis ignores the plain language of LU-1.2 that any new village meet LEED-ND or equivalent requirements, it is not a reasonable interpretation of the Update's requirements for new villages. Whether involving the construction of statutes, contracts or general plans, a core principle of construction is to avoid rendering language superfluous. (See, e.g., *Shoemaker v. Myers* (1990) 52 Cal.3d 1, 22 [courts must “not presume that the Legislature performs idle acts, nor [can they] construe statutory provisions so as to render them superfluous”].)

Here, the legislative body for the County enacted a mandatory provision in LU-1.2 with three unambiguously discrete elements. Neither the applicant, nor any subsequent County Board, should presume that the Board majority which enacted the Update did not mean what it said when it added the LEED-ND requirement. The public also has a right to expect that *each* of these elements be given independent meaning in the application of this Policy. It is therefore arbitrary and capricious for the County to adopt an interpretation, as has happened here, that would read one of these mandatory elements—the “LEED-ND or equivalent” requirement—out of the adopted General Plan.

Moreover, when General Plan requirements are unambiguously stated in mandatory terms, as is the case here, courts are bound to enforce them. For example, in *Endangered Habitats League v. County of Orange*, supra, the General Plan specified that the Highway Capacity Manual (HCM) method be used to assess traffic impacts of a proposed specific plan. Because the County used a different method, the Volume to Capacity method (V/C), the Court set aside the approval of the specific plan because unambiguous mandatory provisions of the general plan were not followed. The court noted that:

“The General Plan requires LOS C as determined under the HCM method, and the project does not comply. That is does so under the V/C method is of no import, since the General Plan is unambiguous in demanding the evaluation be made by the HCM method.” (131 Cal.App.4th at p. 782-783.)

Just as in *Endangered Habitats League*, the mandatory General Plan policy here unambiguously requires that new villages meet LEED-ND or equivalent standards. Because it has not been shown to meet these standards, the Project cannot be approved.

Nor can the Project as proposed be shown to be consistent with LEED-ND or anything resembling it. As an initial matter, there can be no question that the Lilac Hills Ranch Specific Plan (Project) is a new “village” rather than an expansion of an existing one. It is surrounded on all sides by land designated and used for rural uses. While within the Water Authority line, the project lacks sufficient infrastructure and services. Consequently, the provisions of Land Use Policy 1.2 *must* be satisfied.

Just what is LEED-ND equivalent? The LEED-Neighborhood Development evaluation process sets forth objective standards for new communities through a rating system that integrates the principles of smart growth, urbanism and green building into the first national system for neighborhood design. The rating system is intended to promote sustainable development by, *inter alia*, reducing vehicle miles travelled (VMT) compared to “traditional” development and by locating developments where jobs and services are accessible by foot or public transit. This is why, according to the Green Building Council’s Local Government Guide to LEED-ND, “electing a good location is an important element of LEED for Neighborhood Development. Prerequisites that specify standards for locating a project mean that not all land within a given jurisdiction will be eligible for certification.”¹

As will be shown, the location and design of this Project is a prime example of what the LEED-ND is intended to *discourage*. It is distant from major job and shopping destinations, and the nearest existing transit access point is about 8 miles away. Indeed,

¹ See *A Local Government Guide to LEED for Neighborhood Development* (U.S. Green Building Council, April 2011, at p. 6. (<<http://www.usgbc.org/sites/default/files/Local-Government-Guide.pdf>>))

functionally the Project is a prototypical auto-dependent suburb. It most certainly does not meet LEED-ND's exacting and mandatory locational criteria close to jobs, shopping and other destinations.

The EIR's own traffic study data bear this out. If the total estimated Vehicle Miles Traveled for the Project is divided by the annualized estimated Average Daily Trips (including internal, shared and non-auto trips), the average trip length is about 8.5 miles. And once a modest amount of internal and non-auto trips are subtracted, the average external auto trip would be significantly longer than 8.5 miles—perhaps 10 miles or greater. These outcomes are not consistent with any definition of sustainability. Indeed, according to SANDAG data, the average auto trip length for the County as a whole is only 5.8 miles.

Similarly, despite lofty rhetoric that the project is a “mixed-use pedestrian oriented sustainable Community” and that it “will locate housing close to retail, services, schools and jobs,”² the actual *design* of the project is anything *but* mixed use or sustainable. For example, the Project proponents claim that “[a]ll of the residential lots are within one-half mile of either the Town Center or one of the two smaller Neighborhood Centers.”³ That is somehow supposed to make the Project “sustainable.”

But just what *are* these “Neighborhood Centers?” It turns out that the Southern Neighborhood Center is made up of 0.4 acres with a mere 2,500 square feet of commercial space (about a medium size house) of unspecified uses which do not even have to be built concurrently with the housing development, or ever, for that matter. Even if built, the so-called Neighborhood Center could be a gas station and a tanning salon. Just how the existence of this paltry speck of commercial development one-half mile from hundreds of homes makes the Project more “sustainable” from a travel behavior standpoint is not explained or empirically substantiated. But common sense would indicate that it will not measurably alter the fundamentally auto-dependent nature of this far-flung bedroom community. It most certainly is not consistent with LEED-ND standards for a “walkable” neighborhood.

In summary, the record developed so far shows that the Project as proposed is fundamentally inconsistent with the General Plan's mandatory criteria contained in LU-1.2 governing the establishment of new village densities on lands currently designated rural and semi-rural. Unless LU-1.2 is itself revised (not part of the GPA description), the proposed Specific Plan cannot be approved consistent with law.

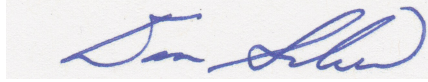
Thank you for considering EHL's views.

² SP at p. II-1.

³ Id.

Mark Slovick, PDS
County of San Diego
EHL Comments on Lilac Hills Ranch Specific Plan
August 19, 2013
Page 5

Very truly yours,

A handwritten signature in blue ink, appearing to read "Dan Silver", is centered on a light gray rectangular background.

Dan Silver, MD
Executive Director

cc: Interested parties

Sept 3, 2013

VIA ELECTRONIC MAIL ONLY

Mark Slovick
 Dept of Planning and Development Services
 5510 Overland Ave, Suite 110
 San Diego, CA 92123

RE: Lilac Hills Ranch Master Planned Community: PDS2012-3800-12-001 (GPA), PDS2012-3810-12-001 (SP), PDS2012-3600-12-003 (REZ), PDS2012-3100-5571 (TM), PDS2012-3100-5572 (TM), PDS2012-3300-12-005 (MUP), PDS2012-3500-12-017 (STP), PDS2012-3500-12-018 (STP), HLP XX-XXX LOG NO.3910 12-02-003 (ER); SCH NO. 2012061100

Dear Mr. Slovick:

The Endangered Habitats League (EHL) appreciates the opportunity to submit additional comments into the record on the Draft Environmental Impact Report for this proposed project.

These comments are in the form of a blog post from Kaid Benfield, a principal author of LEED-ND, titled "Green sprawl is still sprawl." The post analyzes the purported sustainability of the proposed project.

<http://switchboard.nrdc.org/blogs/kbenfield/green_sprawl_is_still_sprawl.html>

If you could respond to this message confirming your receipt, in good order, that would be appreciated.

With best regards,
 Dan Silver

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Kaid Benfield's Blog

'Green' sprawl is still sprawl

Posted September 3, 2013 in [Living Sustainably](#), [Solving Global Warming](#)
 Tags: [smartgrowth](#), [sprawl](#), [sustainablecommunities](#)

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Does the lead photo with this article look like a good place to put over 1700 new homes on a little over 600 acres? What if I told you it was working agricultural land in a remote location 45 miles north of San Diego and 61 miles south of San Bernardino, California? What if I added that the developer is doing everything it can to make the project green? Those are the questions currently facing San Diego County authorities.

The environmental importance of development location

Unfortunately for the proposed project's sponsor, the most significant factor in determining the environmental impacts of real estate development is [the project's location](#). Even the greenest development in the wrong location will create more environmental problems than it will solve. Of course, that doesn't stop developers' and architects' green puffery. Heck, they may even be well-intentioned, trying to do the greenest internal design on a site whose non-green location cannot be overcome. But trying to green a project doesn't make wishes come true.

I've written about this sort of thing multiple times, [criticizing a purported "net zero" energy-efficient development in Illinois](#) that is totally automobile-dependent, and pointing out that higher density, though generally an asset to green performance, [won't cure locational problems](#). I've criticized the [American Institute of Architects](#) and [even the US Green Building Council](#) for undervaluing location in their green awards programs. (At least USGBC has taken a major positive step by adopting [LEED for Neighborhood Development](#), a certification program that rewards good locations along with other green features. More about LEED-ND later in this article.)

Development locations far from existing cities and towns cause substantial environmental problems, disrupting agricultural lands and natural ecosystems; requiring the spread of resource-consuming infrastructure, including new road capacity that brings more runoff-causing pavement to watersheds; attracting ancillary sprawling development nearby; and causing major transportation impacts.

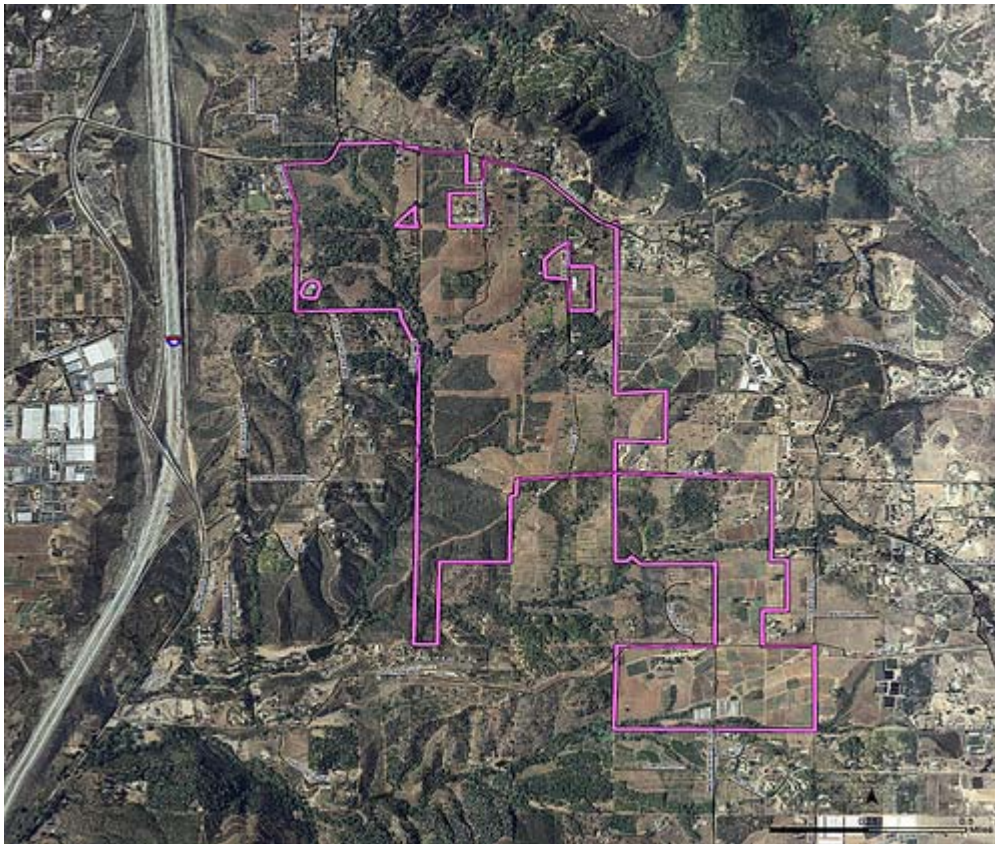
I can't over-stress that last point: On average, [we use more energy and emit more carbon getting to and from a building](#) than does the building itself. Peer-reviewed research published by the federal EPA shows that even green homes in conventional suburban locations [use more energy and emit more carbon than non-](#)

[green homes in transit-served city neighborhoods](#). The problem only gets worse when the development is located beyond suburbia on truly rural land. Indeed, the [most exhaustive research I know on how land use affects travel behavior](#) found that location – measured by, among other things, the distance from the regional center – is by far the most significant determinant of how much household driving will occur, over time, from a given location.

Simply put, green sprawl is still sprawl.

“An I-15 sustainable community”

This brings me to a proposed “I-15 sustainable community” (the developer’s tagline) some 45 miles north of San Diego and 61 miles south of San Bernardino, California. I’m tempted to say that the site is in the middle of nowhere, but that’s not quite fair. It is more accurate to say that it is decidedly rural, home to working orchards, cropland and ranchland on rolling terrain near Lancaster, Pala, and Weaver Mountains near the north edge of San Diego County. There are scattered rural residential enclaves and a few small, newer suburban developments within a few miles.





The proposal's [draft environmental impact report](#) describes the setting this way:

"The project site is generally characterized by agricultural lands and gently rolling knolls, with steeper hillsides and ridges running north and south along the western edge. Existing land uses in the surrounding area include residential dwellings that range from suburban to semi-rural densities, along with agricultural uses and vacant lands."

What the site is *not* is a good place to put 1,746 new homes at an average density of 2.9 units per acre.

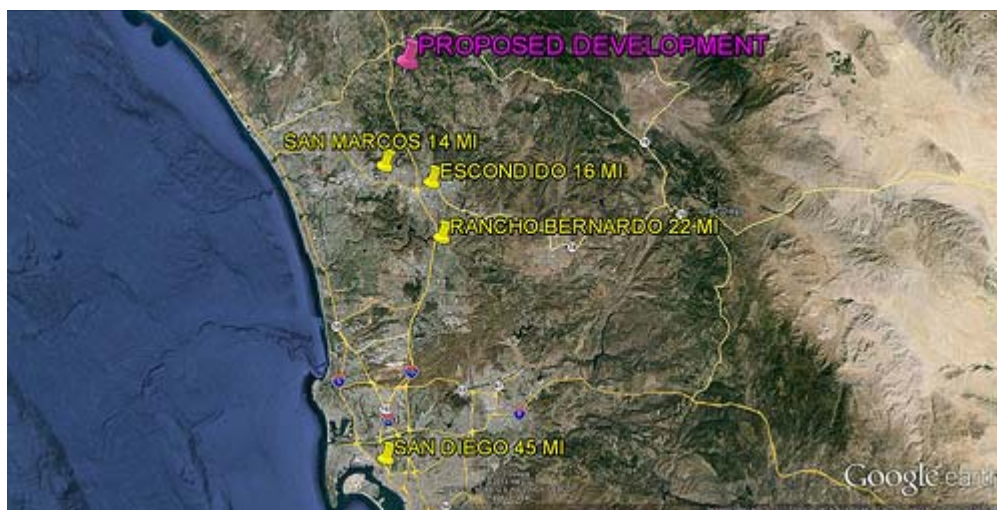
Perhaps that is why it is illegal under current law, which zones the land for agricultural use. That is also its designation in the county's general plan, recently adopted after more than a decade of deliberation. The developer is seeking to change the zoning and to change the plan to accommodate the development.

The developer's argument for the proposal, to be called [Lilac Hills Ranch](#), is that it will be internally walkable, with amenities within a 10-minute reach of most residents; that it will cluster development so as to maintain green space; that it will utilize green technology in building design; and that it will create "a neighborhood grounded in traditional small-town values embracing 21st Century design and sustainability."

To be honest, that sounds pretty nice if it were located adjacent to existing development instead of leapfrogging across vacant land. But it isn't; I took a look at some numbers. Because the site is unusually shaped and mostly open land, it is hard to find a point within it that is catalogued in searchable databases. So I picked a spot on the north edge of the site on West Valley Road, the main access to the site from I-15, and ran it through some calculators.

Location by the numbers

Google Maps says the north side of the project is 14 miles from San Marcos, the nearest town with significant employment, 16 miles from downtown Escondido, and 22 miles from Rancho Bernardo. As noted, it is 45 miles from downtown San Diego. We're talking about very long work commutes. There is no transit nearby and, even under the best of circumstances, unlikely to be any future transit that would go conveniently from the development to San Diego County's scattered work sites.



My spot's Walk Score was **2**. Pretty low, eh? Walk Score basically measures how close a site is to shops and conveniences. Ideally, it finds walkable locations with ratings above 60 or so that have things within walking distance. The average Walk Score for Escondido is 51. For San Diego city, the average Walk Score is 56. The average in Los Angeles is 66. A Walk Score of 2 means that this site is not near much, to say the least.

I also ran it through [the Abogo calculator maintained by the Center for Neighborhood Technology](#), which displays driving rates and costs, along with emissions data, for given locations. The average household in the general vicinity of the proposed development emits 1.02 metric tons of carbon dioxide each month just from transportation. This is 46 percent above that of the San Diego region as a whole.

The developer apparently ~~wishes~~ believes that Lilac Hills Ranch would actually reduce greenhouse gas emissions by up to 40 percent compared to a "business-as-usual" scenario, mostly because of the project's internal walkability and planned commercial spaces that would absorb trips that otherwise would be made outside the project. Nothing in the literature of transportation research suggests that would be the case.

First, let's parse what "business as usual" means. What the developer is really claiming is that the project would reduce emissions compared to an even more sprawling development in the same location. The developer is not claiming, nor could it, that the project would reduce emissions below the average for the metropolitan region or even below the amount that would be experienced in an alternative site closer to Escondido or San Diego. As noted above, the most exhaustive research on the subject (Professors Ewing and Cervero's epic "[Travel and the Built Environment](#)," published in the *Journal of the American Planning Association*) found that proximity to downtown and other major destinations, not internal design, was the most significant factor in determining driving rates. ("Almost any development in a central location is likely to generate less automobile travel than the best-designed, compact, mixed-use development in a remote location," write the scholars.)

Look, this proposal basically would replace working agricultural land with a commuter suburb, albeit with some very nice internal amenities for its residents.



Dan Silver, MD, executive director of the Endangered Habitats League, summed the League's position in a letter to the San Diego County planning office, which is apparently reviewing the proposal:

"This project would create a commuter-based 'bedroom' community in an agricultural portion of Valley Center. It would shred the consensus reached for the Valley Center community as part of the historic General Plan Update, just adopted in 2011. No compelling planning rationale or deficit in housing capacity is present to justify this proposed amendment."

The League is not alone in its criticisms. The Valley Center Planning Group voted 11-1 to send a scathing critique of the proposal to the planning office, according to [an article by David Ross](#) published last month on the local news site *Valley Road Runner*. If anything, the Planning Group's language was even stronger than that of the Endangered Habitats League, reports Ross:

"Key take-aways from the response the Planning Group approved Monday night:

- *"The project is leapfrogging and therefore contrary to the good planning principles upon which the General Plan Update was based. It plops urban building densities into a rural agricultural area without appropriate existing infrastructure. **A much better project alternative than any proposed is within the Downtown Escondido Specific Plan Area**, says the review.*
- *"In most major areas of the project, the rationale presented by the applicant is going to change the General Plan requirements to be aligned with what it wants to do. According to the group, this defeats the efforts by all who participated in the 12-year-long, \$18 million county General Plan Update project that was approved by the Board of Supervisors only two years ago."*

It seems to me that the planning office should be encouraging green revitalization and redevelopment within cities and towns, and encouraging the addition of new green features to existing suburbs. In some cases, it might be reasonable to review even a new mega-project such as this one if it were not only green but also adjacent and connected to existing development. But, assuming the worst, what's the point of having a planning office if it approves leapfrog development that violates its own plan?

The project, LEED-ND, and California planning law

Adding rhetorical insult to environmental injury, [a document prepared in support of the development](#) asserts that the proposal is "designed to meet the environmental standards of" LEED for Neighborhood

Development, the voluntary green rating system mentioned at the top of this article. (See our [Citizen's Guide](#).) Seriously? Then file an application and get a certification that proves it. Heck, you could at least apply to the US Green Building Council, which administers LEED-ND, for a “prerequisite review” that for a fraction of the cost and time of full certification will determine whether you meet the rock-bottom minimum locational standards of the system.

Given the serious doubts raised about this proposal, if I were a planning official for San Diego County I would politely ask that the developer do just that as a condition of further discussion of any zoning change or planning amendment. Speaking for myself, my informal opinion based on about a dozen painful hours of reviewing planning documents in this case is that there is not a snowball's chance in hell that this proposal qualifies for LEED-ND certification or even that it would pass the minimum prerequisites to be considered.

For one thing, LEED-ND requires a minimum average density of seven dwellings per acre, not the 2.9 at issue here. For another, the LEED-ND locational prerequisite is generous, but not generous enough to let this project slip through. (I should know, because I was its principal author.) To be considered, a project must qualify as (1) infill; (2) adjacent and connected to a minimum amount of previous development; (3) served by existing or fully committed minimum transit service; or (4) surrounded by a minimum number of specified, pre-existing “neighborhood assets” within walking distance. In other words, a project can't be smack in the middle of rural land at a long distance from existing development. Well, it can be, but it won't – and shouldn't – qualify for green certification under LEED-ND.



Current agricultural zoning (left) and proposed change to "residential urban" (right)

Finally, in 2008 [California passed what many of us believed at the time to be landmark legislation](#) (“SB 375”) requiring that each metropolitan area in the state, including San Diego County, develop specific, long-range land use and transportation planning documents that meet assigned targets for reducing emissions of greenhouse gases from transportation. A lot of people in the state, including my NRDC colleague Amanda Eaken, worked long and hard to ensure that the new law would be fair to developers and municipalities as well as protective of the environment. They succeeded at that, and won the support of a broad range of nonprofit and commercial interests.

Basically, each metro area must develop a “Sustainable Communities Strategy” as part of its transportation

plan. The SCS must anticipate population growth and housing needs and allocate them to areas within the region that can accept them consistent with the law's environmental aims. The state's Air Resources Board must review and certify that the plans are adequate to meet their emissions-reduction targets. Municipalities are expected to conform to the regional plans, and transportation funding and development approval benefits flow to the priority growth areas.

The whole point of SB375 was to encourage development within or close to existing development and existing city and town infrastructure. (And, no, contrary to the developer's assertions here, being close to an Interstate highway is not what the framers had in mind when they spoke of existing city and town infrastructure.)

The Sustainable Communities Strategy for San Diego County, crafted by the San Diego Association of Governments and adopted two years ago, was built on the premise that the county's general land use plan would remain in place. As a result, this development not only challenges the plan; it also flies in the face of all the hard work and good faith that went into the region's Sustainable Communities Strategy pursuant to SB375. This should matter, not just a little but a lot. As far as I could tell from the documents I reviewed, the SCS isn't even mentioned.

The bottom line: in another place, this might be a great green development, though I would want to improve its design for better walkable density and transit access. Its on-site premises do appear to have some merit to them. But this location is so, so wrong that it negates what might otherwise be the development's environmental assets. It's a shame because, in the end, the development basically amounts to little more than pretty sprawl.

+++++